

ORIGINAL

SAMUEL P. KING, JR. 1396
735 Bishop Street, Suite 304
Honolulu, Hawaii 96813
Tel. No. 521-6937

Attorney for Defendant

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

JUL 11 2006

at 3 o'clock and 39 min. P.M. 5
SUE BEITIA, CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

| | |
|---------------------------|----------------------------|
| UNITED STATES OF AMERICA, |) Cr. No. 04-00181SOM-02 |
| |) |
| vs. |) 18 USC 1344, 1957, & 982 |
| |) |
| CYNTHIA AGBAYANI, |) DEFENDANT'S SENTENCING |
| |) STATEMENT |
| Defendant. |) |
| _____ |) |

DEFENDANT'S SENTENCING STATEMENT

The Presentence Investigation Report (PIR) states that the "loss" in this case is \$628,973.78 and adds 14 levels (paragraph 87 of the PIR) for a loss between \$400,000 and \$1,000,000. The PIR gave Defendant \$1,000,000 for the fact that the 174 Kokololio Place property sold for \$1,200,000 on 5/27/05 (paragraph 76 of the PIR), thereby reducing the loss by \$1,000,000. The PIR does not give Defendant credit for the fact that there is still over \$650,000 being held by the Government which Wells Fargo will be able to recover as the interested party in the forfeiture action (which is pending). See paragraphs 50 and 53 of the PIR. The PIR does not give Defendant credit for the fact that the 1702 Noe Street property (paragraph 37 of the PIR) is also available as security for the line of credit opened by Defendant. There is also no credit given in the PIR for the fact that the

CERTIFICATE OF SERVICE ATTACHED

Kokololio Street property sold for \$1,200,000 to cover a \$1,000,000 loan from Wells Fargo - an additional \$200,000. In short, there is plenty of money available to cover the "loss" of \$628,000 to Wells Fargo. In the forfeiture action, Wells Fargo should submit a claim for this money and should prevail as all of the money is traceable (as the PIR shows) to the sale of the Kokololio property and to the funds borrowed by Defendant on the line of credit.

Based on the credit that Defendant should receive for funds still available to reimburse Wells Fargo, the "loss" in this case should be \$0 with the appropriate adjustment in the Guideline calculation.

DATED: Honolulu, Hawaii, July 11, 2006.




SAMUEL P. KING, JR.
Attorney for Defendant

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing document was served upon the United States Attorney at 300 Ala Moana Blvd., Honolulu, Hawaii, on July 11, 2006.

DATED: Honolulu, Hawaii, July 11, 2006.

A handwritten signature in black ink, appearing to read 'S. King, Jr.', is written above a horizontal line.

SAMUEL P. KING, JR.
Attorney for Defendant